

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: OCTOBER 8, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: VAR-35745 - APPLICANT/OWNER: DARRELL R. PARSONS
AND KATHRYN L. LENHART**

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. The applicant shall obtain building permits and a final inspection as required for all existing accessory structures prior to occupancy of the proposed residence.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request to allow a 20-foot front yard setback where 50 feet is the minimum required for a proposed single family dwelling on a portion of 3.3 acres at 5300 Solar Avenue.

The site consists of three subdivided residential lots. The easternmost lot contains the existing primary residence and driveway. The westernmost lot contains a fenced arena toward the front and several equine related accessory structures to the rear. The center lot contains an existing shop building and a chicken coop. None of the existing accessory structures on the site have a valid building permit or a final building inspection. A Manufactured Home qualifying for zoning treatment as a single family detached dwelling is proposed on the center lot 20 feet from the front property line. According to the applicant the structure is intended to be used as a private dwelling for the co-owner of the property.

The applicant's hardship is self-preferential in that the physical design of the property does not hinder the placement of the accessory structure such that code requirements for setbacks cannot be met. Staff therefore recommends denial of the request. Denial of this request would not allow for a single family dwelling to be placed on the property in the location proposed.

Issues:

- The subject parcel consists of three legally subdivided lots.
- The proposed single family detached dwelling meets all other Title 19 development standards.
- There is adequate space on the lot to place the proposed structure behind the required front yard setback line.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
09/18/02	A deed was recorded for change of ownership.
11/01/05	Code Enforcement issued a citation notice (#35756) for exceeding the six-vehicle maximum limit at 5300 Solar Avenue. A follow up inspection was conducted 11/28/05, which found that the vehicles had been removed. The case was closed by Code Enforcement on 11/30/05.
03/07/07	The City Council approved a Rezoning (ZON-17693) from R-E (Residence Estates) to R-PD5 (Residential Planned Development – 5 Units per Acre) and a Site Development Plan Review (SDR-17694) for a proposed 40-lot single family residential development on 7.27 acres adjacent to the northeast and southeast corners of Bradley Road and Solar Avenue. The Planning Commission recommended approval; staff recommended denial. The approvals expired 03/07/09.

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04/12/07	The Planning Commission approved a Tentative Map (TMP-18305) for a proposed 40-lot single family residential subdivision on 7.27 acres adjacent to the northeast and southeast corners of Bradley Road and Solar Avenue. Staff recommended approval. No final map was recorded within two years of approval and the Tentative Map approval expired 04/12/09.
01/02/08	Code Enforcement issued a citation notice (#60885) for an illegal structure (mobile home) in the southeast corner of the front yard area. A follow up inspection was conducted 01/16/08, which found that the structure had been removed. The case was closed by Code Enforcement on 01/17/08.
05/07/08	A deed was recorded for change of ownership.
05/22/09	A deed was recorded for change of ownership.
<i>Related Building Permits/Business Licenses</i>	
12/07/90	A building permit (#90091546) was issued for a chain link fence at 5300 Solar Avenue. No final building approval was given, and the permit became inactive 11/18/92.
08/22/91	A building permit (#91117456) was issued for a single family dwelling at 5300 Solar Avenue. A final building inspection was approved 12/10/91.
09/03/91	A building permit (#91118459) was issued for electrical work at 5300 Solar Avenue. No final building approval was given, and the permit became inactive 11/18/92.
09/05/91	A building permit (#91118591) was issued for plumbing work at 5300 Solar Avenue. A final building inspection was approved on 12/06/91.
09/22/91	A covenant running with land agreement between the city and the owner for sewer, water, fire hydrants, streetlights, curb and gutter, sidewalk and asphalt improvements was recorded.
09/27/91	A building permit (#91121141) was issued for mechanical work at 5300 Solar Avenue. A final building inspection was approved on 12/09/91.
10/14/91	A building permit (#91122797) was issued for portable horse stalls at 5300 Solar Avenue. No final building approval was given, and the permit became inactive 11/18/92.
11/20/91	A building permit (#91126835) was issued for a gas line for the single family dwelling. No final building approval was given, and the permit became inactive 11/18/92.
12/18/92	A building permit (#92170624) was issued for a workshop, tack room, hay storage, and electrical work at 5300 Solar Avenue. Twelve building inspections were conducted, but no final building approval was given, and the permit expired 11/06/93.
06/07/95	A building permit (#95378853) was issued for a room addition at 5300 Solar Avenue. Seven building inspections were conducted, but no final building approval was given, and the permit expired 02/17/96.

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<i>Pre-Application Meeting</i>	
07/21/09	Submittal requirements for Variance and Special Use Permit applications were discussed. Staff raised questions concerning the location, height, size and materials used for the proposed accessory structure. The applicant was asked to show all accessory structures, existing and proposed, on the property.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	
<i>Field Check</i>	
09/03/09	Staff conducted a field check and found a site containing a two-story single family dwelling in good condition. Tall trees surround the site for screening. An equine area is located in the front yard area on the west side of the property. No animals were visible on the day of inspection. The front yard area is fenced off from the right-of-way by chain link, with the equine area using post-and-wire fencing behind the chain link. The driveway is gated. A horse trailer, large satellite dish and several vehicles were visible from the front yard. Multiple accessory structures were visible to the rear of the property.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	3.3

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single Family Dwelling	ML (Medium-Low Density Residential)	R-E (Residence Estates)
North	Undeveloped	ML (Medium-Low Density Residential)	R-E (Residence Estates)
	Single Family Dwellings	ML (Medium-Low Density Residential)	R-PD5 (Residential Planned Development – 5 Units per Acre)
South	Single Family Dwellings	ML (Medium-Low Density Residential)	R-E (Residence Estates)
East	Single Family Dwellings	ML (Medium-Low Density Residential)	R-PD5 (Residential Planned Development – 5 Units per Acre)
West	Single Family Dwellings	ML (Medium-Low Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A

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Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following development standards apply to this request:

Standard	Required/Allowed	Provided	Compliance
Min. Setbacks (R-E lots)			
• Front	50 Feet	20 Feet	N
• Side	10 Feet	10 Feet	Y
• Corner	N/A	N/A	N/A
• Rear	35 Feet	223 Feet	Y
Max. Lot Coverage (R-E)	N/A	10.1%	N/A
Max. Building Height	Two stories or 35 feet, whichever is less	One story	Y

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Single Family, Detached	2,412 SF	2 per dwelling unit	2	0	2	0	
TOTAL	2,412 SF		2		2		Y

ANALYSIS

Title 19.08.040(B) Table 1 requires a front yard setback of 50 feet in R-E (Residence Estates) zoning districts. The placement of the proposed manufactured home (qualifying for zoning treatment as a single family detached dwelling) is 30 feet closer to the front property line than allowed by code, a 60 percent deviation. The applicant has indicated that the proposed placement of the residence is to allow joint access of the existing driveway between the existing residential dwelling on the adjacent lot to the east and the proposed detached dwelling. The proposed single family detached dwelling meets all other Title 19 development standards.

As the size and shape of the lot do not hinder conformance with the front yard setback requirement, staff recommends denial of the request.

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FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070(L) states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented. The size and shape of the lot do not hinder conformance with the front yard setback standard. The applicant has created a self-imposed hardship by locating a proposed single family dwelling out of compliance with Title 19 setback requirements. Relocating the proposed structure at least 50 feet from the front property line would allow conformance to Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 13

SENATE DISTRICT 9

NOTICES MAILED 436

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PROTESTS 3